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August 2, 2019

Via U.S. Mail & E-mail: 76603-14975770@requests.muckrock.com

Dan Rubins
MuckRock News
DEPT MR 76613
411A Highland Ave
Somerville, MA 02144-2516

Re: Public Records Act Request (Government Code §6250, et.seq.)

Dear Mr. Rubins:

On July 5, 2019, our office was forwarded your request for: All "Brady lists," Giglio lists, "potential impeachment disclosure lists," or any similar compiled records or lists of records of the type set forth in California Penal Code § 832.7(b)(1)(C). For the reasons set forth below, the lists requested are exempt from production under the California Public Records Act (CPRA).

A "*Brady List*" is exempt from disclosure under several CPRA exemptions. First, Government Code section 6254, subdivision (f), exempts from production "any investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes." This exemption applies to District Attorney files and continues to apply even if the investigation is closed. (*Williams v. Superior Court* (1993) 5 Cal.4th 337, 351, 354, 362 and *Rivero v. Superior Court* (1997) 54 Cal.App.4th 1048, 1059.)

Second, a "*Brady List*" is also exempt from production under Government Code section 6254, subdivision (k), as the records are exempt from disclosure under other provisions of law, specifically, Penal Code sections 832.7 & 832.8 [continued confidentiality of peace officer personnel records outside of limited categories], 1054.6 [attorney work product], Code of Civil Procedure section 2018.30 [attorney work product], and Evidence Code section 1040 [official information]. (*Commission on Peace Officer Standards and Training v. Superior Court*, supra, 42 Cal.4th at p. 289 [confidential nature of peace officer personnel records applies to any "information obtained from those records"]; *Association for Los Angeles Deputy Sheriffs v. Superior Court* (2017) 13 Cal.App.5th 413, 445 [disclosure of sheriff

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deputy identities from *Brady* list prohibited absent a properly filed and granted *Pitchess* motion]; *Dowden v. Superior Court* (1999) 73 Cal.App.4th 126, 128-135 [attorney work product]; *Fellows v. Superior Court* (Los Angeles County) (1980) 108 Cal.App.3d 55, 63 [same].)

For the reasons stated above, the lists requested are exempt from disclosure. In short, SB 1421 material may be used when a law enforcement agency is creating a "Brady list," but the list itself is not SB 1421 material. If you would like to amend your request to limit it to SB 1421 records please contact us.

Very truly yours,

James N. Fincher
Merced County Counsel



Jeffrey B. Grant
Deputy County Counsel

JBG/sf

cc: Merced County District Attorney